

COMMONWEALTH OF KENTUCKY
BEFORE THE UTILITY REGULATORY COMMISSION

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In the Matter of

THE COMPLAINT OF MRS. NARDA)	
LEWIS AND OTHERS AGAINST THE)	CASE NO. 8148
KENVIR WATER WORKS, INC.)	

O R D E R

Preface

On February 17, 1981, Mr. Lee Gross, a customer of the Kenvir Water Works, Inc. (the "Utility") reported to this Commission that Mr. Winston Madden⁽¹⁾ had on February 16, 1981, stopped operations of the Utility and thereby had discontinued service to the approximately 200 customers served by the Utility. A letter of complaint against the Utility was received on February 18, 1981, from Mrs. Narda Lewis.

OPINION AND ORDER

The Commission, on the basis of the aforementioned letter of complaint and numerous telephone conversations that included the following persons: Mr. Frank Hammons of the London District Office of the Kentucky Department for Natural Resources and Environmental Protection; Mr. Lee Gross, P. O. Box 253, Kenvir, Kentucky - a customer of the Utility; Mrs. Narda Lewis, P. O. Box 74, Dizney, Kentucky, a customer of the Utility and the elected spokesperson for a group of the Utility's customers; Mr. Winston Madden, operator and owner of the Utility and Bob Ackerson, attorney for the former owner of the Utility and on its own motion FINDS:

(1) That the Utility violated Section (2) of KRS 278.030 at the time it ceased to provide water service to its customers. Said Section (2) is quoted as follows:

"Every utility shall furnish adequate, efficient and reasonable service, and may establish reasonable rules governing the conduct of its business and the conditions under which it shall be required to render service."

(1) Mr. Winston Madden, Kenvir, Kentucky 40847 and Mr. William K. Reynolds, 1421 Melwood Avenue, Louisville, Kentucky 40206 apparently negotiated and executed a contract for the purchase and sale of the Utility without seeking or obtaining approval of this Commission.

(2) That the Utility did, on February 16, 1980, discontinue its efforts to provide adequate, efficient and reasonable service to its customers as required by KRS 278.030.

(3) That information provided to this Commission by two of its customers⁽²⁾ indicates that the Utility is now billing its customers a flat monthly rate of \$10.00 per month per customer without having obtained approval of this Commission for charging this rate. The official records⁽³⁾ of this Commission show the Utility's approved rate to be \$4.80 per month per customer. The Utility is, hereby, reminded that the charging of a rate not prescribed by this Commission is in violation of KRS 278.160 which is quoted as follows:

"278.160 Utilities to file and display schedule of rates; adherence to schedule.

(1) Under rules prescribed by the commissions, each utility shall file with the appropriate commission, within such time and in such form as the commission designates, schedules showing all rates established by it and collected or enforced. The utility shall keep copies of its schedules open to public inspection under such rules as the commission prescribes.

(2) No utility shall charge, demand, collect or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules, and no person shall receive any service from any utility for a compensation greater or less than that prescribed in such schedules."

(4) That the Utility, due to its apparent non-compliance with KRS 278.030 and KRS 278.160, may be subject to imposition of the penalties cited under Section (1) of KRS 278.990 as follows:

"Any officer, agent or employe of a utility, as defined in KRS 278.010, and any other person who willfully violates any of the provisions of KRS 278.010 to 278.450; or who procures, aids or abets any violation of those provisions by any such utility, shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than six (6) months or both. If any such utility that is a private corporation violates any of the provisions of KRS 278.010 to 278.450, or does any act therein prohibited,

(2) Mr. Lee Gross by telephone on February 17, 1981, and Mrs. Narda Lewis by letter received February 18, 1981.

(3) The official tariff of the Utility on file with this Commission and the Order of this Commission entered November 22, 1968 in Case No. 4988.

or fails to perform any duty imposed upon it under those sections for which no penalty has been provided by law, or fails to obey any lawful requirement or order of the commission having jurisdiction, the utility shall for each offense forfeit and pay to the state treasurer, to be credited to the general fund, a sum not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000). Each act, omission or failure by an officer, agent or other person acting for or employed by a utility and acting within the scope of his employment shall be deemed to be the act, omission or failure of the utility."

(5) That the appropriate representatives of the Utility should appear before this Commission to show cause, if any can be shown, for those actions resulting in violation of KRS 278.030 and KRS 278.160. Further, that both the former owner and the present owner of the Utility should provide testimony at the said hearing.

IT IS THEREFORE ORDERED that Mr. Winston Madden, Mr. George Madden and Mr. William Reynolds shall appear before this Commission at its offices located at 730 Schenkel Lane, Frankfort, Kentucky, on March 5, 1981, at 1:30 p.m., EST, and be prepared to provide testimony regarding the transfer of ownership of the Utility, the operations of the Utility and the Utility's apparent non-compliance with KRS 278.030 and KRS 278.160.

Done at Frankfort, Kentucky, this 24th day of February, 1981.

UTILITY REGULATORY COMMISSION

Chairman

Vice Chairman

Commissioner

ATTEST:

Secretary